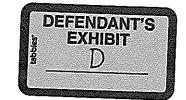
#### **Condensed Transcript**

## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

IAN J. BROWN, JAMES BROWN AND BARBARA BROWN,



Plaintiffs,

VS

CIVIL ACTION NUMBER 04-11924-RGS

UNITED STATES OF AMERICA, VERIZON NEW ENGLAND, INC. AND BOSTON EDISON COMPANY D/B/A NSTAR ELECTRIC,

Defendants.

#### **DEPOSITION OF**

#### IAN JAMES BROWN

July 7, 2006 9:40 a.m.

Prince, Lobel, Glovsky & Tye, LLP 100 Cambridge Street, Suite 2200 Boston, Massachusetts

Laurie J. Driggers, Notary Public, Certified Shorthand Reporter, Realtime Professional Reporter and Certified Realtime Reporter, within and for the Commonwealth of Massachusetts.



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July 7, 2006

19 1 A. —and my job there was to await training for the upcoming undergraduate 3 pilot training class. 4 Q. Okay. And did you participate in the pilot training class? 5 A. Yes, sir. 7 Q. Okay. And how long — did you 3 complete it? 9 A. No, sir. 10 Q. Okay. And how long — did you 4 complete it? 9 A. No, sir. 11 Q. Okay. Why not? 12 Q. Okay. From — from flight training 13 to what kind of training? 13 to what kind of training? 14 A. Sir, I went into next developmental enjaneering." what does it 16 enjaneering." what does it 18 eniail? 19 A. Sir, I went into next developmental enjaneering." what does it 18 eniail? 19 A. Sir, I went into next developmental enjaneering." what does it 19 enjaneering. The complete it? 19 A. Sir, I went into next developmental enjaneering." what does it 19 enjaneering. The complete it? 20 Cokay. What does that mean, 19 developmental enjaneering." what does it 19 enjaneering. The complete it is a broad job in the Air 20 Force. They can utilize you as best they see fit for your talents versus the 21 programs theyre running. In a general 22 sense, it is electrical engineering or 23 computer engineering for the government — 18 10 Q. Okay. A formy tract. 11 Q. Okay. So this was a purely 10 poblemental engineer in the Air Force that you made? 11 Q. Okay. So this was a purely 11 voluntary choice on your part? 12 A. Yes, sir. 11 Q. Okay, So where did you go next 16 requirements of flight and pilot training 15 to that point? 20 Cokay. So where did you go next 16 requirements of flight and pilot training 16 to that point? 20 Cokay. So where did you go next 17 Q. Okay, So where did you go next 18 for - within the Air Force to further 19 your developmental engineering career track within the Air Force to further 19 your developmental engineering career track within the Air Force to further 19 your developmental engineering career track within the Air Force to further 19 your developmental engineering career track within the Air Force to further 19 your developmental engineering career track within				
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Q. Okay. So this was a purely voluntary choice on your part?  A. Yes, sir.  Q. Okay. Had you completed all of the requirements of flight and pilot training to that point?  A. Yes, sir.  Q. Okay. Had you go next for within the Air Force to further your developmental engineering career track within the Air Force?  A. Sir, I PCSed, which is basically changing bases, to Hanscom Field in Massachusetts.  10 Q. Okay. I mean, I'm not looking to ask you questions that effect the security of our country, you know. I just want to have a general idea of the kind of work you were doing.  13 A. Yes, sir.  14 Yes, sir.  Q. Okay. So where did you go next defense; is that fair to say?  A. Yes, sir.  Q. Okay. And and was there a group of you involved in that kind of work you were doing.  A. Yes, sir.  Q. Okay. And and was there a group of you involved in that kind of work you were doing.  A. Yes, sir.  Q. Okay. And and was there a group of you involved in that kind of work while you were at Hanscom?  A. Yes, sir.		he better suited outside of aircraft.	9	
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13 Q. Okay. Had you completed all of the 14 requirements of flight and pilot training 15 to that point? 16 A. Yes, sir. 17 Q. Okay. So where did you go next 18 for within the Air Force to further 19 your developmental engineering career track 20 within the Air Force? 21 A. Sir, I PCSed, which is basically 22 changing bases, to Hanscom Field in 23 Massachusetts. 21 A. Yes, sir. 22 A. Yes, sir. 23 have a general idea of the kind of work 24 you were doing. 25 A. Yes, sir. 26 Q. So you were doing developing 27 computer programs related to national 28 defense; is that fair to say? 29 A. Yes, sir. 20 Q. Okay. And and was there a 21 group of you involved in that kind of work 22 while you were at Hanscom? 23 A. Yes, sir.	1		12	
requirements of flight and pilot training to that point?  A. Yes, sir.  Q. Okay. So where did you go next for within the Air Force to further your developmental engineering career track within the Air Force?  A. Sir, I PCSed, which is basically changing bases, to Hanscom Field in Massachusetts.  14 you were doing. A. Yes, sir. Q. So you were doing developing computer programs related to national defense; is that fair to say? A. Yes, sir. Q. Okay. And and was there a group of you involved in that kind of work while you were at Hanscom? A. Yes, sir.			13	have a general idea of the kind of work
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17 Q. Okay. So where did you go next 18 for within the Air Force to further 19 your developmental engineering career track 20 within the Air Force? 21 A. Sir, I PCSed, which is basically 22 changing bases, to Hanscom Field in 23 Massachusetts. 21 Computer programs related to national defense; is that fair to say? 29 A. Yes, sir. 20 Q. Okay. And and was there a group of you involved in that kind of work while you were at Hanscom? 22 A. Yes, sir. 23 A. Yes, sir.	į.	·	16	
18 for within the Air Force to further 19 your developmental engineering career track 20 within the Air Force? 21 A. Sir, I PCSed, which is basically 22 changing bases, to Hanscom Field in 23 Massachusetts. 21 defense; is that fair to say? A. Yes, sir. Q. Okay. And and was there a group of you involved in that kind of work while you were at Hanscom? A. Yes, sir. A. Yes, sir.			17	
your developmental engineering career track within the Air Force?  A. Sir, I PCSed, which is basically changing bases, to Hanscom Field in Massachusetts.  A. Yes, sir. Q. Okay. And and was there a group of you involved in that kind of work while you were at Hanscom? A. Yes, sir.  A. Yes, sir.  A. Yes, sir.  A. Yes, sir.			18	defense; is that fair to say?
20 within the Air Force? 20 Q. Okay. And and was there a group of you involved in that kind of work 21 changing bases, to Hanscom Field in 22 Massachusetts. 20 Q. Okay. And and was there a group of you involved in that kind of work while you were at Hanscom? A. Yes, sir.	1		19	
21 A. Sir, I PCSed, which is basically 22 changing bases, to Hanscom Field in 23 Massachusetts.  21 group of you involved in that kind of work 22 while you were at Hanscom? 23 A. Yes, sir.	1		20	
22 changing bases, to Hanscom Field in 22 while you were at Hanscom? 23 Massachusetts. 22 A. Yes, sir.	1	A Sir I PCSed which is basically	21	
23 Massachusetts. 23 A. Yes, sir.	1	changing bases, to Hanscom Field in	22	
			23	
24 Q. Okay. And when did you arrive at 24 Q. Okay. And now many people were		Q. Okay. And when did you arrive at	24	Q. Okay. And how many people were



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		1	
	21		23
1	within your group?	1	Court?
2	<ul> <li>A. Sir, there were roughly ten</li> </ul>	2	A. Sir, it is a temporary home or a
3	military personnel	3	mobile home.
4	Q. Mm-hmm.	4	Q. Okay. Did anyone live there with
5	<ul> <li>A. – and roughly ten civilian</li> </ul>	5	you?
6	personnel.	6	A. Yes, sir.
7	Q. Okay. And were – were there	7	Q. Who lived there with you?
8	servicemen or women who reported to you on	8	A. Sir, my girlfriend
9	the at Hanscom in the work you were	9	Q. Mm-hmm.
10	doing?	10	A at the time.
11	A. No, sir.	11	Q. And what's her name?
12	Q. And and to whom did you report?	12	A. Sir, it was Jennifer Gagne,
13	<ul> <li>A. Sir, I reported to Captain now</li> </ul>	13	G-A-G-N-E.
14	Major Brian Peters.	14	Q. Okay. And you said your girlfriend
15	Q. Okay. And and to whom did	15	at the time. Is - are you no longer
16	Major Peters report?	16	involved with Miss Gagne?
17	A. Sir, he reported to then Colonel	17	A. Correct.
18	Bremer, George Bremer.	18	Q. Okay. And when did you first
19	Q. Can you spell Bremer's last name,	19	become romantically involved with Miss
20	B-R-E-M-E-R?	20	Gagne?
21	A. Sir, that sounds right.	21	A. Sir, at school, at the Air Force
22	Q. All right. And was Colonel Bremer	22	Academy
23	present at Hanscom?	23	Q. Okay.
24	A. Yes, sir.	24	A in 1999.
	22		24
1	Q. Okay. And was was there any	1	Q. And is is Miss Gagne a member
2	servicemen or service women senior to	2	of the Air Force?
3	Colonel Bremer within the chain of command	3	A. Yes, sir.
4	at Hanscom?	4	Q. Is she still?
5	A. Yes, sir.	5	A. No, sir.
6	<ul> <li>Q. And can you identify who was senior</li> </ul>	6	Q. Okay. Do you know when she left
7	to Bremer?	7	the service?
8	A. No, sir.	8	A. No, sir.
9	Q. Okay. But there was someone senior	9	Q. Did do you know whether she
10	to Bremer at Hanscom?	10	completed her five-year commitment to
11	A. Yes, sir.	11	postgraduate service?
12	Q. And this was part of this team?	12	A. No, sir.
13	A. Yes, sir.	13	Q. You don't know, or she did not?
14	Q. Okay. Now, where did you live when	14	A. Sir, I do not know.
15	you served at Hanscom?	15	Q. Okay. Do you know where she lives
16	A. Sir, I lived at Independence	16	now?
17	Court	17	A. No, sir.
18	Q. All right.	18 .	Q. Okay. When's the last time you had
19	A Minuteman Village.	19	any communication with her?
20	Q. Is there an address, or is	20	A. This morning.
21	Independence Court the address?	21	Q. Okay.
22	A. Sir, it was 159 Independence Court.	22	A. Correction. Last night.
23	Q. All right. What physically,	23	Q. Are you still on a friendly basis
24	what kind of housing is 159 Independence	24	with her?



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	149		151
1	A. Yes, sir.	1	I want to start asking you some
1	MR. WORTH: Okay. This is	2	questions about the accident itself. And
2	Joshua Lewin who's just arrived this	3	I guess my first question to you is: Do
3	· · · · · · · · · · · · · · · · · · ·	4	you have a memory of anything concerning
4	morning? THE WITNSES: Hello.	5	the accident?
5	- 1	6	A. Yes, sir.
6	MR. WORTH: Everyone knows	7	Q. Okay. And have you since the
7	him but you.	8	time of the accident, have you always
8	MR. CHARNAS: Josh, lan	9	remembered what happened?
9	Brown.	10	A. Yes, sir.
10	THE WITNESS: Nice to meet	_	Q. All right. Do you remember when
11	you.	11	
12	MR. CALLAHAN: This is	12	the police officers arrived on the scene?
13	Cheryl Genereux from my office.	13	A. No, sir.
14	MS. GENEREUX: We met once	14	Q. So you have no memory of speaking
15	before.	15	with any police officers at the scene?
16	MR. WORTH: The expectation	16	A. No, sir.
17	is that we're gonna transition at some	17	Q. Okay. So is it fair to say that
18	point. I think I'm going to finish out	18	your memory isn't complete about the
19	certain of these questions and then we'll	19	accident?
20	take a short break and then if that's	20	A. Yes, sir.
21	okay with everybody.	21	MR. CHARNAS: Objection.
22	MR, CHARNAS: Sure.	22	Q. All right. You don't remember
23	MR. WORTH: In fact, you	23	speaking to the police officer at the
24	know what? If you gave us ten minutes,	24	scene; is that right?
2.4	150		152
1	we could probably do it now if you're	1	A. No, sir.
2	can you give us ten minutes?	2	Q. What's the last thing about the
	MR. CHARNAS: Absolutely.	3	accident that you remember?
3	MR. LEWIN: Yeah, that's	4	MR. CHARNAS: Let's go off
4		5	the record.
5	fine. (Off the record at 1:11	6	(Off the record at 1:24
6	•	7	p.m.)
7	p.m.)	8	(Discussion off the record).
8	(Recess taken).	9	(Back on the record at 1:24
9	(Back on the record at 1:21	1	p.m.)
10	p.m.)	110	BY MR. LEWIN:
11	(Mr. Worth no longer present	12	Q. Well, I guess my question to you
12	at deposition).	13	is
13	EXAMINATION		MR. CHARNAS: We should go
14	BY-MR.LEWIN:	14	_
15	Q. All right. Mr. Brown, we've been	15	back on. (Reporter interruption).
16	introduced. My name is Josh Lewin. I am	16	•
17	gonna take over for Mr. Worth. 1	17	BY MR. LEWIN: Q on January 4th, 2002, you were
18	represent Verizon, the phone company. And	18	
19	forgive me if I ask any questions that	19	involved in a motorcycle accident?
20	have been asked this morning. As you	20	A. Yes, sir.
21	know, I wasn't here, so I'll try to have	21	Q. And you remember some events on the
22	a sense of what was covered this morning	22	days of January on the day of the 4th;
	time and the set there are	23	is that right?
23	and I'll try and stay off those those	24	A. Yes, sir.



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Lan	dames blown		July 7, 200
	153		155
1	Q. Okay. Do you remember being in the	1	A. Sir, normal work time in the
2	hospital on January 4th?	2	morning.
3	A. No, sir.	3	Q. Which is about?
4	Q. Okay. And do you remember being	4	A. Sir, it's about 8:00
5	transported to the hospital from Bedford?	5	Q. Okay.
6	A. No, sir.	6	A is when work starts, but I
7	Q. What is the last event you recall	7	normally go in early.
8	on the day of January 4th, 2002?	8	Q. About how early?
9	A. Hitting the telephone pole, sir.	9	A. Sir, I would go and work out for
10	Q. Okay. Now, when you say "hitting	10	an hour or two before work.
11	the telephone pole," can you describe for	11	Q. And do you recall doing that on
12	me what you remember?	12	January 4th?
13	A. Sir, it's a broad question. I	13	A. Yes, sir.
14	don't know exactly what aspect that you're	14	Q. And at some point did you leave
15	looking at.	15	work by the way, when you say work,
16	Q. Well, you said the last thing you	16	where was your work at Hanscom?
17	remember is hitting the telephone pole.	17	A. Sir, it was on base at the ESC
18	Can you describe for me what you remember	18	
19	about hitting the telephone pole?	19	building.
20	A. Sir, I remember heading toward the	20	Q. And about how long would it take
21	telephone pole. My field of vision wasn't	1	you to get from your home to work at the
22	on it. And I just remember contacting	21	ESC building?
23	what would've been the pole, based on my	23	A. Sir, only a couple of minutes.
24	position.	24	Q. Can you clarify "a couple"?
	154	24	A. Yes, sir. Maybe ten. 156
1	Q. What part of your body hit the	1	Q. Around ten minutes?
2	telephone pole?	2	<ul> <li>A. Sir, it could be more or less.</li> </ul>
3	A. My head.	3	Q. Okay. Would you say more than
4	<ul> <li>Q. And do you remember feeling your</li> </ul>	4	five?
5	head hit the telephone pole?	5	<ul> <li>A. Sir, it could be more than five.</li> </ul>
6	A. No, sir. And also you didn't let	6	<ul> <li>Q. What's your best guess about how</li> </ul>
7	me finish the what I felt I hit the	7	long it took you to get to work?
8	telephone pole. I I there may have	8	MR. CHARNAS: Objection.
9	been other parts of my body that hit it.	9	Q. From your residence?
10	I just remember stopping and I remember	10	<ul> <li>A. Sir, I could only give a best-faith</li> </ul>
11	impacting the pole, but I don't know	11	estimate.
12	exactly what orientation my body was	12	Q. What's your best-faith estimate?
13	immediately after and immediately at the	13	<ul> <li>A. My best-faith estimate would be</li> </ul>
14	point of impact.	14	about five to ten minutes.
15	<ul><li>Q. Okay. Well, let's step back a</li></ul>	15	<ul><li>Q. All right. And on the day of</li></ul>
16	little. Do you remember events of the day	16	January 4th, did you ride your motorcycle
17	of January 4th before you got on your	17	to work that morning?
18	motorcycle leaving your house to return to	18	A. No, sir.
19	Hanscom Air Force Base?	19	Q. Okay. How did you get to work?
20	A. Yes, sir.	20	A. Sir, I drove my pickup truck.
21	<ul> <li>Q. Okay. Can you tell me what you</li> </ul>	21	Q. And at some point did you return
22	did on the day of January 4th?	22	from work to your residence?
		1	
23 24	A. Sir, I went to work. Q. At what time?	23	A. Yes, sir.     Q. Okay. And about what time was



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1		ľ	159
	that?	1	estimate I can give you.
2	A. Sir, it was early afternoon,	2	Q. Okay. Now, when you went to return
3	shortly after after the normal lunch	3	to work in the afternoon of January 4th,
4	hour. I had a late lunch that day.	4	you decided to drive your motorcycle?
5	Q. Okay. And what time was your late	5	A. Yes, sir.
6	lunch?	6	Q. And can you tell me why you decided
7	A. Sir, I do not remember an exact	7	to drive your motorcycle that day?
8	time.	8	A. Sir, I think that I chose to drive
9	Q. Can you give me an estimate of what	9	my motorcycle back to work primarily
10	time?	10	because the weather was was good and I
11	A. I I could give you a best-faith	11	preferred riding my motorcycle in good
12	estimate of leaving the office around 1:00	12	weather than my pickup truck.
13	or so.	13	Q. What was the weather that day?
14	<ul> <li>Q. And when you left the office, did</li> </ul>	14	A. Sir, it was unseasonably warm. It
15	you go directly to your home?	15	was nice.
16	A. Yes, sir.	16	Q. Clear?
17	<ul> <li>Q. Okay. And where was your home</li> </ul>	17	A. Yes, sir.
18	located at the time?	18	Q. And were the roads dry?
19	A. Sir, 129 Independence Court in	19	A. Yes, sir.
20	Bedford, Massachusetts.	20	Q. Okay. When you say "unseasonably
21	<ul> <li>Q. And is that located off of Hartwell</li> </ul>	21	warm," can you give me kind of a range of
22	Road in Bedford?	22	the temperature you think it may have
23	A. Yes, sir.	23	been?
24	<ul> <li>Q. Okay. When you left work and</li> </ul>	24	A. No, sir. I cannot.
	158		160
1	rushed home, what mode of transportation	1	Q. Can you say it was warmer than 40
2	did you use to return to your home?	2	degrees?
3	<ul> <li>A. Sir, I drove my pickup truck.</li> </ul>	3	A. Yes, sir.
4	<ul> <li>Q. And what did you do when you were</li> </ul>	4	Q. Warmer than 50 degrees?
5	at your home on January 4th at around	5	A. Sir, it could have been.
6	1:00?	6	Q. Somewhere in the vicinity of 50
7	A. Sir, I had lunch.	7	degrees?
8	Q. And about how long did you spend at	8	<ul> <li>A. Sir, we would have to check records</li> </ul>
9	home having lunch?	9	to find out. I don't recall off the top
10 11	A. Not long, sir.	10	of my head.
12	Q. Can you give me more than a	11	<ul> <li>Q. Okay. Why was it that you drove</li> </ul>
13	half an hour?	12	your pickup in the morning versus driving
14	A. Sir, it would be unlikely that I	13	your motorcycle in the afternoon?
15	spent much longer than a half hour there.	14	A. Sir, I answered that question that
16	Q. Would you say about a half hour?  A. Yes, sir.	15	you just asked.
17	Q. And at some point at approximately	16	Q. Well, let me ask you this: Why did
18	around 1:30 would you say you left your	17	you drive your pickup truck in the morning
19	house to return to work?	18	versus your motorcycle in the morning?
20	A. Sir, it could've been because I	19	A. Sir, the weather was worse in the
21	estimated the first time, I left my house	20 21	morning than it was in the afternoon. It
	when I was done eating and I got to my	22	was colder.  Q. Did you drive your motorcycle
22		44	S. Dia voa arive vour motorcycle
22 23		23	
	house in the early afternoon. And to the best of my knowledge, that's the best	23 24	frequently in the winter?  A. No, sir.



i i			
	165		167
1	motorcycle?	1	about my memory of losing control?
2	<ul><li>A. Sir, that I noticed? No.</li></ul>	2	Q. I just want to know everything you
3	<ul> <li>Q. Okay. Well, have you learned since</li> </ul>	3	can remember about the time at which you
4	then that there were any problems with the	4	lost control of the motorcycle.
5	tires on the motorcycle?	5	A. Sir, when the motorcycle was no
6	A. Sir, I have not.	6	longer in my control, I remember feeling
7	Q. Okay. Were you aware of any other	7	the bike falling out of control and
8	technical problems with the motorcycle at	8	pushing off with my feet from the bike to
9	that time?	9	turn my back to the approaching guardrail.
10	A. Sir, I was not aware of any.	10	Q. Prior to you feeling that you were
11	Q. Okay. Have you become aware since	11	losing you were no longer in control of
12	that time of any problems with the	12	the bike, what caused you to lose control
13	motorcycle?	13	of the of the motorcycle?
14	A. No, sir.	14	A. Sir, the motorcycle lost control
15	Q. Now, at some point you lost control	15	after exiting the depression that was in
16	of the motorcycle; is that right?	16	the road.
17	A. Yes, sir.	17	Q. Okay. Did you see the depression
18	Q. And do you remember that?	18	in the road before the motorcycle hit the
19	A. Yes, sir.	19	depression in the road?
20	Q. And since the time of the accident,	20	A. Yes, sir.
21	have you always remembered losing control	21	Q. Okay. And did you slow down when
22	of the motorcycle?	22	you saw the depression in the road?
23	A. Yes, sir.	23	A. Yes, sir.
24	Q. Okay. Has your memory changed at	24	
		2 9	Q. Okay. And about how fast were you
		1	
	166		168
1	all over time? Well, let me rephrase the	1	168 going before you saw the depression in the
2	all over time? Well, let me rephrase the question. Has your ability to remember	1 2	
2	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at	Į.	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.
2 3 4	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?	2 3 4	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking
2 3 4 5	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?  A. No, sir. My ability is fine.	2 3	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking at your speedometer at the time?
2 3 4 5 6	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?  A. No, sir. My ability is fine.  Q. Do you do you recall talking to	2 3 4	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking at your speedometer at the time?  A. No, sir.
2 3 4 5 6 7	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?  A. No, sir. My ability is fine.  Q. Do you do you recall talking to a police officer and telling them that you	2 3 4 5	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking at your speedometer at the time?  A. No, sir.  Q. So it's fair to say that your
2 3 4 5 6 7 8	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?  A. No, sir. My ability is fine.  Q. Do you do you recall talking to a police officer and telling them that you had no idea what happened after the	2 3 4 5 6 7 8	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking at your speedometer at the time?  A. No, sir.  Q. So it's fair to say that your memory that you were going when you say
2 3 4 5 6 7 8 9	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?  A. No, sir. My ability is fine.  Q. Do you do you recall talking to a police officer and telling them that you had no idea what happened after the accident?	2 3 4 5 6 7 8 9	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking at your speedometer at the time?  A. No, sir.  Q. So it's fair to say that your memory that you were going — when you say about 25 — is just your best estimate at
2 3 4 5 6 7 8 9	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?  A. No, sir. My ability is fine.  Q. Do you do you recall talking to a police officer and telling them that you had no idea what happened after the accident?  A. Sir, I do not remember that.	2 3 4 5 6 7 8 9	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking at your speedometer at the time?  A. No, sir.  Q. So it's fair to say that your memory that you were going when you say
2 3 4 5 6 7 8 9 10	all over time? Well, let me rephrase the question. Has your ability to remember what happened in the accident changed at all over time?  A. No, sir. My ability is fine.  Q. Do you do you recall talking to a police officer and telling them that you had no idea what happened after the accident?  A. Sir, I do not remember that.  Q. Do you remember speaking to any	2 3 4 5 6 7 8 9 10	going before you saw the depression in the road?  A. Sir, about the speed limit of 25.  Q. All right. Do you remember looking at your speedometer at the time?  A. No, sir.  Q. So it's fair to say that your memory that you were going — when you say about 25 — is just your best estimate at this point?  A. No, sir.
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1	of the bike?	1	A. Yes, sir.
2	A. Yes, sir.	2	Q is that right?
	Q. All right. And can you describe	3	Okay. And so you positioned your
3	that for me?	4	body as you're in the air; is that right?
4	A. Yes, sir. The bike front tire	5	A. That's right.
5	of the bike slid out from underneath me.	6	Q. By the way, did you ever hit the
6	of the bike slid out from and officer toward its	7	ground between the point where you lost
7	The bike began to topple over toward its	8	control of the bike and the time that you
8	right side. I felt the bike losing	9	impacted the guardrail?
9	control, and I exited the bike in a way	10	A. Sir, I do not remember hitting the
10	to make myself safe from getting trapped	11	around.
11	underneath it.	12	Q. Okay. Do you have a recollection
12	Q. All right. Now you said the bike	13	of being in the air the entire time?
13	fell in such a way as to fall on its	14	A. Sir, I have a recollection of being
14	right side. Do you recall when the handle	15	in the air at the time of the accident.
15	bar sorry do you recall the handle	16	O. Well, when you say "at the time of
16	bars moving at all on the bike as you	17	the accident," what do you mean by that?
17	lost control of it?	18	A I remember leaving the motorcycle, [
18	A. No, sir.	19	turning my back to the guardrail and being
19	Q. Okay. They remained straight?	20	in the air during that process.
20	A Sir that's an assumption that you	21	Q. Okay. And at some point did you
21	are making. I don't recall the movement	22	hit the guardrail?
22	of the handle bars in the process.	1	A. Yes, sir.
23	O Okay, Now, when you say the bike	23	Q. And do you recall hitting the
24	fell so that it was landing on its right	124	
****	178		180
	side, would was the back tire coming	1	guardrail?
1	around to your right or around to your	2	A. Sir, my eyes were in the opposite
2	around to your right of around to your	3	plane from hitting the guardrail, but the
3	left side?  MR. CHARNAS: Objection.	4	path that I was on and the aim point that
4	A. Sir, the back tire was not coming	5	I had picked as a best-faith estimate, I
5	around in a direction	6	can say that I hit the guardrail that was
6		7	in my line of path in my line of
7	Q. Okay. A that I remember.	8	travel. But
8	A that i remember.     Q. So the bike just fell towards your	9	Q. And what was go ahead.
9	right side; is that correct?	10	<ul> <li>A. I answered already.</li> </ul>
10	A. Yes, sir.	11	Q. Okay.
11	- a And as that hannened VOLLVE	12	A. Sorry.
12	explained how you tried to position your	13	Q. What was the first part of your
13	body, but I'm not sure I understood it.	14	body that hit the guardrail?
14	If you could explain it to me again.	15	A. Sir, the first part of the
15	A Sir I saw the encroaching	16	guardrail that I hit my body, that I
16	guardrail, and I pushed off with my feet	17	remember, there might've been a minor
17	and turned my back to the guardrail for	18	change, maybe the back of my heel hit,
18	safety	19	have no idea what the first point is
19	O Okav	20	what the first point that I remember
20	A. — and used the guardrail to guide	21	hitting was my back.
21	me	22	Q. Okay. About where on your back?
23	Q. And as you came off the bike, you	23	A. Sir, I do not recall.
24	were coming head first	24	Q. Okay. Go ahead.
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an 00	illes blown		107
	185		187
	that it was in contact for a few seconds,	1	is what the Air Force calls for our
1	but that's the best I can give you.	2	camouflage clothes. I was wearing a pair
2	Q. Okay. You've testified that the	3	of slacks, a BDU blouse, what we call
3	Q. Okay. You've testined that the	4	our winter-weight camouflage jacket.
4	first part of that your head hit the	5	was wearing a t-shirt underneath that.
5	telephone pole; is that right?	6	was wearing a pair of combat boots,
6	A. Yes, sir.	7	standard issue. And on top of all of my
7	Q. Okay. And was that the first part	8	uniform I was wearing a full suit of
8	of your body that hit telephone pole?	9	riding gear for protective clothing,
9	A. Sir, I do not know.	10	including a helmet, kevlar suit and riding
10	Q. Do you recall do you recall		protective gloves.
11	bitting the telephone pole?	11	Q. And how long had you had your full
12	A Yes sir though my eyes were not	12	Q. Alid how long had you have yo
13	on the pole when it hit. I was looking	13	suit of riding gear?
14	in the apposite direction.	14	A. Sir, I bought the suit with my
	Q. Okay. Well, how do you know you	15	motorcycle.
15	actually hit the pole?	16	Q. And when was that?
16	A. It was directly in the line of path	17	A. Sir, the exact date would be on the
17	that I was traveling, and my motion	18	bill of re bill of sale, which we can
18	that I was traveling, and my motion	19	get, if needed.
19	abruptly stopped at the pole.	20	Q. Do you remember the month and year?
20	Q. Okay. By the way, were you	21	A. It's sir, it was late sir,
21	conscious after you hit the pole?	22	it was 2001, and I do not remember the
22	A. Sir, I do not recall	23	month of purchase.
23	Q. Okay.	24	Q. How about the season?
24	A immediately after or I I	27	188
	186		
1	do not know.	1	A. Sir, it was summer.
2	Q. Okay. What's the next memory you	2	Q. And had you owned a motorcycle
3	have after hitting the pole?	3	prior to this?
4	Δ Sir after after I hit the	4	A. Yes, sir.
5	telephone pole, the next memory I have is	5	Q. Okay. What was the first
1	waking up in the hospital.	6	motorcycle that you owned?
6	Q. And when was when did you wake	7	A. Sir, it was a Kawasaki Zx6.
7	up, that day or	8	Q. And when did you purchase that?
8	A. Sir, that's the part that gets	9	A. Sir, I would have to check the bill
9	vague when my memory is I don't know	10	of sale.
10	vague when my memory is a running	11	Q. How about month and year?
11	what day it was that I initially regained	12	A. 1999 is the year. Month could
12	consciousness. I don't know that I was	13	have been in springtime.
13	unconscious. I was put into a	14	<ul> <li>Q. And did you own any other</li> </ul>
14	medically-induced coma, and I remember	15	motorcycles?
15	recovering after that.	16	A. No. sir. Only those two.
16	Q. Do you remember anything prior to	17	Q. And when did you cease to own the
17	do you remember anything after the	18	Kawasaki Zx6?
18	accident, but prior to the		A. Sir, I traded that for my Kawasaki
19	medically-induced coma?	19	Zx12R.
20	A. No, sir.	20	Q. And the Zx12 was the bike you we
21	O All right. At the time of the	21	riding at the time of the accident?
22	accident, what were you wearing?	22	
122	A. Sir, at the time of the accident I	23	A. Yes, sir.
23	A. Sir, at the time of the accidence was wearing my battle dress uniform, which	h 24	Q. You said you took some courses of



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1	Q. Do you recall?	1	A. Yes, sir.
2	A. I do not recall.	2	Q. And do you remember consciously
3	Q. Okay. You said you hit a	3	avoiding the manhole with your motorcycle?
4	depression in the roadway on Hartwell	4	A. Yes, sir.
5	Road.	5	Q. By the way, what's the speed limit
6	A. Yes, sir.	6	on Hartwell Road?
7	Q. Okay. Can you describe what that	7	A. Sir, it's 25.
	depression what you recall about that	8	Q. After you hit the telephone pole
8	depression?	9	well, you said the first part of your body
9	A. Yes, sir. The depression that was	10	was your head that hit the telephone pole.
10	in the roadway was surrounding a manhole	11	What's the next thing you remember?
11	cover, and it was in the lane leaving	12	A. Sir, that question was asked in a
12	Independence Court along Hartwell Road.	13	different context and the same answer
13	And I have driven past that very pothole,	14	Q. Okay.
14	ran past it while jogging and ridden my	15	A is that the next thing I
15	bicycle fast many times, and from what I	16	remember after contacting the telephone
16	recall of that pothole, I remember always	17	pole was waking up in the hospital.
17	consciously and subconsciously thinking	18	Q. Okay. So you don't remember any
18	that it was a dangerous situation. And it	19	time you don't remember landing on the
19	went down several inches into the roadway,	20	ground after you hit the telephone pole?
20	unlike many of the other manhole covers	21	A. Correct.
21	that I had encountered anywhere else in	22	Q. Okay. Okay. Do you remember
22		23	having any pain when you hit the telephone
23	the country.	24	pole?
24	Q. And do you remember, from what you		196
	194		
1	had seen, about how many inches it went	1	A. Sir, I do not remember.
2	down?	2	Q. Okay.
3	A. Sir, I can only give a best-faith	3	MR. CHARNAS: Off the
4	estimate of about three inches.	4	record.
5	Q. So on the day of January 4th, 2002,	5	(Off the record at 2:08
6	you were aware that there was an	6	p.m.)
7	unusually-dangerous manhole on Hartwell	7	(Discussion off the record). (Back on the record at 2:09
8	Road?	8	·
9	A. Yes, sir.	9	p.m.) BY MR. LEWIN:
10	<ul> <li>Q. And you had seen it many times</li> </ul>	10	Q. What's the first thing you remember
11	before?	11	when you woke up in the hospital?
12	A. Yes, sir.	12	A. Looking at the ceiling tiles.
13	Q. Okay. Had you ever driven over it	13	
14	on your motorcycle before?	14	<ul><li>Q. Did you know where you were?</li><li>A. No, sir. I had no clue.</li></ul>
15	A. No, sir.	15	1 1 b-managad2
16	Q. How about with your pickup truck?	16	
17	Let me ask you a different question. Do	17	<ul><li>A. No, sir.</li><li>Q. Did you have any idea what was</li></ul>
18	you ever recall driving in your pickup	18	
19	truck and hitting the depression with one	19	going on?
20	of the tires of the pickup truck?	20	A. No, sir.
21	A. No, sir.	21	Q. Okay. Who was the first person
22	<ul> <li>Q. Okay. Do you remember consciously</li> </ul>	/ 22	that you saw?
23	avoiding the manhole cover with your	23	A. Sir, looking back, I actually don't
24	pickup truck?	24	remember now



Evperience vou can Trust

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1	appetite so I didn't really eat much.	1	cover there. So let me just probe a
2	They'd come home at night and I'd try to	2	little bit. If it's all been covered,
3	get up for a little bit, and you know,	3	just let me know.
4	talk to them. And every once in a while	4	All your medical treatment is
5	they would cook but they're both so busy	5	covered by the by the military?
6	that it was like three ships passing in	6	A. No, sir.
7	the night. More than often than not we	7	Q. All right. Whose it covered by?
8	ended up ordering in food and there's not	8	A. Sir, the majority of it is covered
) j	much around me. So I got kind of tired	9	by the Department of Veteran Affairs.
10	of Italian and Chinese every day.	10	Q. Okay. And do you expect those
11	Q. Did you have any company during the	11	benefits to continue in the future?
12	day?	12	A. I do, sir.
13	A. No. At that point my so much	13	Q. All right. And do they ever
14	of my time my free time was spent	14	terminate?
15	coordinating with financial institutions	15	A. Sir, they may.
16	and dealing with insurance issues and	16	Q. Do you know?
17	medical equipment issues and those kinds	17	A. I do not know for sure.
18	of things.	18	Q. Okay. Is it your expectation that
19	I mean, it was almost a full-time	19	they'll continue as long as you are alive?
20	job just trying to situate all the	20	A. No, sir.
21	paperwork to adjust to my new life and	21	Q. Okay.
22	change of address and change of income and	22	A. They I would imagine a policy
23	change of pretty much everything you can	23	change.
24	imagine goes with it.	24	Q. Do you have any knowledge or
	250		252
1	Q. And once again, if it's been	1	information that your benefits will cease
2	covered, just let me know.	2	at any given time?
3	But how about recreational	3	<ul> <li>A. No. But then again, I have no</li> </ul>
4	activities?	4	knowledge that it's going to continue. I
5	A. I had we covered it.	5	just don't know much about that topic.
6	Q. It's covered?	6	<ul> <li>Q. But as far as you know, everything</li> </ul>
7	A. Yeah.	7	is covered at this point.
8	<ul> <li>Q. And covered now as well through the</li> </ul>	8	A. Yes, sir. The there are things
9	current time?	9	that are not covered by the military and
10	MR. CHARNAS: (Nods head).	10	that's why I replied no to one of the
1.1	BY MR. LEWIN:	11	previous questions you asked me.
12	Q. Okay. All right. You mentioned	12	Q. All right. And what are those
13	that you dealt within financial	13	things?
14	institutions.	14	A. Sir, chiropractic care, any of the
15	A. (Witness nods head).	15	care to help rehabilitate muscles, such as
16	Q. Can you explain to me the benefits	16	massage, myofascial release, chronic pain
17	you're receiving?	17	issues. Some of your medical equipment is
18 19	A. Sir, we went over all that. Q. It was covered?	18 19	not covered by the Department of Veterans
20		20	Affairs, so a lot of the things you need to do to adapt, you have to provide for
	MR. CHARNAS: (Nods head). BY MR. LEWIN:	21	on your own, modifications to clothing and
121	DI IVIT. LEVVIIV.	1	
21	O I'm goppo just I'm going to cold	122	all kinds of things that you would not 1
22	Q. I'm gonna just I'm going to ask	22	all kinds of things that you would not, I
	Q. I'm gonna just I'm going to ask a few questions it's my understanding that there was some stuff that Bill didn't	22 23 24	all kinds of things that you would not, I guess, typically think of as a burden to anybody in a situation similar to mine are



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	253	255
	1 typically not covered by medical insurance	1 my back.
	2 or by the Department of Veteran Affairs.	2 Q. And the next thing you mentioned
	Q. Are you receiving chiropractic	3 was myofascial release.
	4 care?	4 A. Right.
	5 A. Yes, sir.	5 Q. What's
i	6 Q. On a regular basis?	6 A. That I discussed some of that
	7 A. Yes, sir. It's in the it	7 earlier. It's a technical term. But
	8 should be in the notes and if that's not,	8 basically the surrounding that covers the
	9 we can get that to you.	9 muscle is binding up, making the muscles
	10 Q. And that's out of pocket?	10 cramp. There's techniques you can do to
	11 A. Yes, sir.	help relieve that cramping and it's part
	12 Q. And same question with respect	of what they did in massage and the same
	by the way, who who are you treating	with the chronic pain. They were just
-	14 with on the chiropractic care?	techniques to release some of the muscle
	15 A. Sir, Doctor Madeline Healey, and	15 tension and pain that were there.
	16 it's documented.	16 Q. And was that treatment from the
	17 Q. How about the muscle massage to	same people, the Healey chiropractic
i	18 which you referred?	18 A. Yes.
ı	A. I can no longer afford to do that.	19 Q and your friend who was a
ı	20 It was part of the rehabilitation to help	20 masseuse?
	rehabilitate the rhomboids and Latissimus	21 A. Yes.
	dorsi that I injured from surgery. Part	22 Q. Same with the chronic pain
ļ	23 of it was done at Doctor Healey's office	23 A. Yes.
	and the other part was done by a masseuse,	24 Q that you mentioned?
	254	256
i	i	

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who was a friend of mine, but is no 2 longer practicing here. 3 Q. And did you pay for that 4 treatment --5 A. Yes, sir. 6 Q. -- out of pocket? 7 And have the problems for which you 8 sought that treatment, have they resolved 9 themselves? 10 A. No. I just can't afford them 11 anymore. 12 Q. Okay. And can you just describe, 13 again for me, what the -- what exactly the 14 treatment was for? 15 A. Yes, sir. The pain that I have in 16 my shoulders and upper back and pretty 17 much all the pain that I have from 18 postural sitting and the rods in and all 19 this stuff that I covered earlier, it was 20 to help on a muscular sense for the body 21 to better process some of the fluid and to 22 help keep me more flexible and hopefully 23 get me back to a point where I have full 24 range of motion in some of the muscles in

Now, you talked about the V -- the Department of Veteran Affairs not covering some of the equipment -- adaptive equipment that you need.

- A. Yes, sir.
- Q. What sorts of things don't they
- A. Sir, if you have difficulty doing something but there's no letter of medical justification for it, such as you go to class and they don't have a desk that's suited for you and you want to get like a little lap table desk, it's a medical device that sometimes you need to have a doctor prescribe to you, and if not, then you have to pay out of pocket and they elevate the price out of pocket because they know it's not covered by insurance. But things that you need in everyday life that may not be covered, you're expected to pay for.
- Q. You mentioned like a desk. What -what other sorts of things?
- A. Reaching devices. I can't even



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		1	
	261		263
1	your vehicle.	1	to get from my wheelchair to the car seat.
2	A. Sir, the modifications I have to	2	Q. Okay. And there are no
3	the vehicle are a guard that comes down	3	modifications necessary to enable you to
4	and covers the gas plate so that or	4	transfer from the wheelchair into the
5	gas pedal so that I don't, in a leg	5	vehicle?
6	spasm, hit the gas pedal. And there's a	6	A. At this point, no. I can make
7	hand lever with the left hand that	7	that transfer safely on my own.
8	attaches to the steering column, which	8	Q. Okay. And then how do you what
9	runs down to control both the brake and	9	do you do with your wheelchair once you're
10	the gas.	10	inside the vehicle?
11	Q. And can you tell me how you control	11	A. My wheelchair folds up. The sides
12	the brake and the gas with this lever?	12	come off. The back folds forward. The
13	A. Yes, sir. There are two types.	13	wheels pop off so I'm left with an
14	Mine, I pull down toward my lap to depress	14	L-shaped bracket for the wheelchair which
15	the accelerator and I push in toward the	15	I bring across my chest and put in a rear
16	dash in order to apply the brake. They	16	passenger seat and fold the front
17	call that model a "push right angle."	17	passenger seat back and put the tires
18	(Reporter interruption).	18	behind me.
19	THE WITNESS: They call that	19	Q. How long does it take you to get
20	model a "push right angle."	20	from your wheelchair ready to drive away?
21	BY MR. LEWIN:	21	A. Best-faith estimate, several
22	Q. And is there a gear shifter of any	22	minutes. Less than ten maybe. It's not
23	sort?	23	a quick process when it's raining, but
24	A. Sir, it's an automatic	24	it's not an entirely too long either.
27	A. Oil, it's an automatic	24	it's not an cital cly too long citaci.
	262		264
1	transmission.	1	264 Q. It's my understanding that you were
1 2		1 2	
	transmission.	1	Q. It's my understanding that you were
2	transmission. Q. In terms of what the automatic	2	Q. It's my understanding that you were asked some questions about what kind of
2 3	transmission. Q. In terms of what the automatic transmission is, is it the standard pull	2 3	Q. It's my understanding that you were asked some questions about what kind of wage compensation you're receiving
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July 7, 2006

is that on?  A. Hartwell Avenue.  Q. And that's over in that's in Lexington, I think, or a different town?  A. Sir, I'm not sure where the town borders lie.  Q. Ckay. What was the route that you byically followed when you left A. Sir, I I took the shortest path compared to many get the road names wrong.  A. Sir, I I took the shortest path compared to many get the road names wrong.  Q. So there may be days when you recall any of the streets that you would take the trip more than that because the main arter used to go that direction when I would food shopping and such. Q. And fair to say that you drove by this location the location of your accident on many occasions prior to January 4th, 2002? A. Yes, sir, many. Q. And I think you had indicated that you had made observations of this roa depression prior to January 4th, 2002? A. Yes, sir. Q. And you made a habit of trying to avoid the road depression when you w driving both your pickup truck and your motorcycle; is that right? A. Wes, sir. Also on my bicycle. Q. Why did you try to avoid that road depression? A. It just looks like a dangerous situation, sir. Q. Would it be fair to say that you	nake
A. Hartwell Avenue.  Q. And that's over in — that's in Lexington, I think, or a different town? A. Sir, I'm not sure where the town borders lie. Q. Okay. What was the route that you typically followed when you left A. Sir, I — I took the shortest path A. Sir, I — I took the shortest path A. Sir, I — I took the shortest path A. Sir, I — I took the entire time. I think I A. Sir, I — I took the entire time. I think I A. Soy you would get onto Hartwell Road, follow the base along Hartwell Road Road, Sir, the names of them I may have A. Yes, sir, Also on my bicycle. A. It just looks like a dangerous  A. Wost times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would take the trip more than four times? A. Most times I would alouses the main arter used to go that direction when I would food shopping and such. Q. And fair to say that you drove by this location — the location of your accident on many occasions prior to January 4th, 2002? A. Yes, sir, many. Q. And I think you had indicated that you had made observations of this roa depression prior to January 4th, 2002? A. Yes, sir. Q. And you made a habit of trying to avoid the road depression when you wdid the road depression? A. Yes, sir. Also on my bicycle. Q. Why did you try to avoid that road depression? A. It just looks like a d	nake
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4 Lexington, I think, or a different town? 5 A. Sir, I'm not sure where the town 6 borders lie. 6 Q. Okay. What was the route that you 8 typically followed when you left 9 Independence Court to get to the main 10 gate? 11 A. Sir, I — I took the shortest path 12 and followed the base — keeping the base 13 to my right the entire time. I think I 14 may get the road names wrong. 15 Q. So you would get onto Hartwell 16 Road, follow the base along Hartwell Road 17 and then do you recall any of the streets 18 that you would then connect to in order to 19 get to the main gate? 10 January 4th, 2002? 11 A. Yes, sir, many. 12 A. Yes, sir, many. 13 depression prior to January 4th, 2002? 14 January 4th, 2002? 15 A. Yes, sir, many. 16 Road, follow the base along Hartwell Road 17 and then do you recall any of the streets 18 that you would then connect to in order to 19 get to the main gate? 19 driving both your pickup truck and your motorcycle; is that right? 20 A. Sir, the names of them I may have 21 wrong. I think that at the end of 22 Hartwell Road I typically made a right, and I think the name of that was Summer 24 Road. And I think it winds around to the  318 320  1 left and that goes straight to Hartwell 1 situation, sir.	
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A. Sir, the names of them I may have wrong. I think that at the end of Hartwell Road I typically made a right, and I think the name of that was Summer Road. And I think it winds around to the Road I that goes straight to Hartwell Road I that goes straight to Hartwell Road I think it winds around to the Road Road. And I that goes straight to Hartwell Road Road Road Road Road Road Road Road	
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24 Road. And I think it winds around to the 24 A. It just looks like a dangerous 318 320  1 left and that goes straight to Hartwell 1 situation, sir.	
318 320  1 left and that goes straight to Hartwell 1 situation, sir.	*
1 left and that goes straight to Hartwell 1 situation, sir.	
2 Avenue, which I, again, made another right 2 Q. Would it be fair to say that you	
	j
3 and go straight to the main gate. 3 were concerned that it may cause an	s La sur
4 Q. And you had been stationed at the 4 accident if you rode over it?	
5 base sometime in the summer of 2001? 5 A. Yes, sir.	
6 A. Yes, sir. 6 Q. Had you ever noticed the guardi	ail
7 Q. And did you work not knowing how 7 prior to January 4th, 2002?	1
8 it works, it was a typical five days a 8 A. Yes, sir.	
9 week that you worked at the base? 9 Q. And had you ever noticed the	
10 A. Yes, sir. 10 telephone pole prior to January 4th, 2	:002?
11 Q. And you had weekends off? 11 A. Yes, sir. The utility pole.	
12 A. Yes, sir. 12 Q. And do you recall how many	:
13 Q. And it would be fair to how 13 telephone poles or utility poles are or	1
14 frequently did you go home for lunch? 14 the roadway there?	
15 A. Sir, roughly every day. 15 A. No, sir. You see them out of the	
16 Q. Okay. So that so on a typical 16 periphery of your vision when you tra	
workday you would drive to the base in the 17 but I never bothered to count them.	
morning, track back home for lunch, back 18 Q. Okay. Could you describe the	
to the base after lunch and then back home   19 topography as you approach the area	ı of
20 again 20 your accident?	
21 A. Yes, sir. 21 A. Sir, at that time and I	
22 Q to Independence Court. 22 understand now that the road had be	en
23 So it would be four times a day 23 reconditioned. The asphalt was kind	
that you would drive along Hartwell Road? 24 and it the depression was looked	a old,



	321		323
1		1 ,	
1	almost as though the manhole cover was too	1	Hartwell Road?
2	heavy and kind of pulled the roadway into	2	A. Yes, sir.
3	it. Approaching that, you are coming upon	3	Q. And was the manhole and the road
4	a road that is slightly going uphill.	4	depression in the right travel lane or the
5	It's actually quite a kind of a steep	5	westbound travel lane of Hartwell Road?
6	hill. And then it's a left-hand turn	6	A. Sir, I'm not sure of the direction.
7	toward the top of the hill. That's my	7	Q. Okay.
8	best guess of the topography.	8	A. East-west, however, it is on the
9	Q. Okay.	9	if you are driving with the guardrail to
10	A. There are trees and obstructions	10	your right, it is in your lane.
11	off to the right side of the guardrail and	11	Q. Okay. Do you recall if it's in
12	toward the inside you had adjoining	12	the middle of that lane or more toward the
13	traffic and a fence and such.	13	center of the roadway, if you recall?
14	Q. Okay. Do you recall that there was	14	A. Sir, I — I think it was toward
15	a facility right about that curve	15	the center compared to the location of the
16	there's a facility on the left on the	16	entire road.
17	hill?	17	Q. I'm talking about in terms of the
18	A. Yes, sir.	18	right travel lane?
19	Q. Okay. And there's a there's a	19	A. In the lane?
20	road by which people can egress and -	20	Q. Yes.
21	enter into and exit that facility?	21	A. It was closer to the center line
22	A. Yes, sir.	22	than it was closer to the middle of the
23	<ul> <li>Q. In relation to that roadway, the</li> </ul>	23	road.
24	egress and ingress into that facility,	24	Q. Okay. Now, you testified that
	322		
	<i>363</i>		324
1	where was the road depression on the	1	324 Strike that. Do you recall how far that
1 2		1 2	
	where was the road depression on the manhole?  A. Sir, at this time, I think it's	į.	Strike that. Do you recall how far that
2	where was the road depression on the manhole?	2	Strike that. Do you recall how far that road depression was from the telephone
2	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.	2 3	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've
2 3 4	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type	2 3 4	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?
2 3 4 5	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the	2 3 4 5	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance
2 3 4 5 6	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location	2 3 4 5 6 7 8	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?
2 3 4 5 6 7 8	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?	2 3 4 5 6 7 8	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact
2 3 4 5 6 7 8 9	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on	2 3 4 5 6 7 8 9	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.
2 3 4 5 6 7 8 9 10	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.	2 3 4 5 6 7 8 9 10	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of
2 3 4 5 6 7 8 9 10 11	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed	2 3 4 5 6 7 8 9 10 11	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?
2 3 4 5 6 7 8 9 10 11 12	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?	2 3 4 5 6 7 8 9 10 11 12	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith
2 3 4 5 6 7 8 9 10 11 12 13	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.	2 3 4 5 6 7 8 9 10 11 12 13	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as
2 3 4 5 6 7 8 9 10 11 12 13 14	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in	2 3 4 5 6 7 8 9 10 11 12 13 14	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement ended on the right side of Hartwell Road?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?  A. Sir, it's been a while since I've
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement ended on the right side of Hartwell Road?  A. Sir, the manhole and depression in	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?  A. Sir, it's been a while since I've been up here. I don't remember right now
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement ended on the right side of Hartwell Road?  A. Sir, the manhole and depression in the road is toward the center line from	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?  A. Sir, it's been a while since I've been up here. I don't remember right now the best the best I could give you is
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement ended on the right side of Hartwell Road?  A. Sir, the manhole and depression in the road is toward the center line from the area that you are referring to.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?  A. Sir, it's been a while since I've been up here. I don't remember right now the best the best I could give you is what I gave you.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement ended on the right side of Hartwell Road?  A. Sir, the manhole and depression in the road is toward the center line from the area that you are referring to.  Q. Okay. And when you say "center"	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?  A. Sir, it's been a while since I've been up here. I don't remember right now the best the best I could give you is what I gave you.  Q. Have you ever been back to that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement ended on the right side of Hartwell Road?  A. Sir, the manhole and depression in the road is toward the center line from the area that you are referring to.  Q. Okay. And when you say "center line," you're talking about the double	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?  A. Sir, it's been a while since I've been up here. I don't remember right now the best the best I could give you is what I gave you.  Q. Have you ever been back to that location since the accident?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	where was the road depression on the manhole?  A. Sir, at this time, I think it's after. But I haven't been up in this area in quite sometime.  Q. Do you recall there being any type of road signs along Hartwell Road in the hundred to 200 yards prior to the location of your accident?  A. Sir, there's a speed limit sign on the right.  Q. And had you observed that speed limit sign prior to January 4th, 2002?  A. Oh, I always observe the sign.  Q. Where was the road depression in relation to the what I'll call the right side of the road, where the pavement ended on the right side of Hartwell Road?  A. Sir, the manhole and depression in the road is toward the center line from the area that you are referring to.  Q. Okay. And when you say "center"	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Strike that. Do you recall how far that road depression was from the telephone pole or utility pole which you've testified you struck?  A. Do I recall now off the top of my head how far that distance is?  Q. Do you know how far that distance is, yeah, that's my yeah?  A. No, sir. I don't know the exact distance.  Q. Do you have an approximate idea of the distance?  A. Yes, sir. I can give a best-faith estimate of less than a hundred yards, as a rough guess.  Q. Do you know if it's less less than 50 yards from the pole?  A. Sir, it's been a while since I've been up here. I don't remember right now the best the best I could give you is what I gave you.  Q. Have you ever been back to that



	333		335
1	push off to get those clear so that my	1	path of travel so that the bike didn't
2	legs were not trapped underneath. And I	2	come over top of my, per se, or the gas
3	began to turn my shoulders in a manner to	3	tank opening up.
4	start protecting myself from the	4	But I wanted to pick a point where
5	encroaching guardrail.	5	I was gonna be safe from the roadway and
6	Q. How far had the motorcycle traveled	6	from all the other conditions. So I
7	past the road depression when you made the	7	picked a shallow angle at something that I
8	decision to push off the motorcycle?	8	would just glide along.
9	A. Sir, that I have no idea, because I	9	Q. Did all those thoughts go through
10	was not looking behind from where the	10	your mind during this incident in terms of
11	manhole cover was to where I was when I	11	picking an aim point, wanting to make sure
12	pushed off. I simply felt that the bike	12	that the bike didn't roll over you,
13	was going down and knew I had only a few	13	concern about the gas tank, did all of
14	split seconds to keep myself safe. I	1.4	those thoughts go through your mind during
15	didn't look to see how far that was.	15	the accident?
16	Q. Where were you looking?	16	A. Sir, I would not say all of the
17	A. I was looking for an aim point.	17	specifics are things I focused on. But in
18	Basically, something that — any time you	18	all my time in training in parachuting and
19	have a parachute accident or any accident,	19	such, you know so much of what's going on
20	you look for, you know, your safest	20	around you in such a short amount of time,
21	option, and I was looking for a place to	21	it's what you train you spend your
22	turn so that I could slide in a safe	22	entire life focusing on maximizing those
23	manner as possible.	23	seconds that you're in free fall, your
24	Q. When you say I'm sorry. When	24	body position and these things, so that's
	334		336
1	you say an "aim point," what do you mean	1	reverting back to my training after 805
1 2	by that?	2	parachute jumps and orienting my body in
3	A. If you eject out of an aircraft,	3	space and doing these things and avoiding
4	you don't want it to just crash over a	4	injury by picking aim points and stuff,
5	neighborhood, so you try to aim the	5	these were all things that are just
6	aircraft at something it's going to do the	6	instinct to me. So they're thoughts that
7	least impact. I tried to aim my body at	7	are going through my head as I'm
8	something that does the least damage to	8	performing them in a quick and efficient
9	me.	9	manner.
10	Q. And what did you aim your body at?	10	Q. So the aim point that you're
11	A. At the guardrail.	11	referring to, is an aim point that you're
12	Q. You had a full kevlar suit on,	12	going to aim your body at in order to try
13	correct?	13	to minimize risk to you?
14	A. Yes, sir.	14	A. Yes, sir.
15	Q. Okay. Did you make a choice not	15	Q. It's not an aim point that you
16	to go down with the bike and slide along	16	would direct the motorcycle towards?
17	the ground?	17	A. Oh, no, sir.
18	A. Yes, sir.	18	Q. When you were picking that aim
19	Q. Okay. And why is that?	19	point, I take it you saw the guardrail?
20	<ul> <li>A. It looked much safer to avoid the</li> </ul>	20	A. Yes, sir.
21	bike, to get away from it. There are	21	Q. Did you see the telephone or
22	many things that could happen potentially,	22	utility pole?
23	but I wanted to make some distance and change my path of travel from the bike's	23 24	A. No, sir.     Q. How far were you from the guardrail



### **Condensed Transcript**

# UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

IAN J. BROWN, JAMES BROWN AND BARBARA BROWN,

Plaintiffs,

VS.

CIVIL ACTION NUMBER: 04-11924-RGS

UNITED STATES OF AMERICA, VERIZON NEW ENGLAND, INC., and BOSTON EDISON COMPANY d/b/a NSTAR ELECTRIC,

Defendants.

#### **DEPOSITION OF**

#### IAN JAMES BROWN

#### **VOLUME II**

July 14, 2006 9:14 a.m.

Prince, Lobel, Glovsky & Tye, LLP 100 Cambridge Street, Suite 2200 Boston, Massachusetts

Ayako Odanaka, Notary Public, Certified Shorthand Reporter and Registered Professional Reporter within and for the Commonwealth of Massachusetts



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1	guided to the depression that day, or if I	1	question? Can we have that read back?
2	had chosen to do that why I had chosen to	2	Q. Do you recall on Friday I asked you
3	do that.	3	several questions in response to my review
4	Q. Were you, as you You're driving	4	of some of the records, including the
5	down Hartwell Road and you came upon this	5	police report and some of the medical
6	- The area where the depression was	6	records in which indicate that you were
7	located, can you tell me where you were	7	asked what had happened, and you were
8	looking? What you were doing at the time?	8	the response on the records from you was
9	A. No, sir, I cannot.	9	that you did not know what happened; do
10	Q. Do you know if you were distracted	10	you recall that?
11	by For any reason, by any cause as you	11	A. Correct, sir, I recall.
12	were driving down Hartwell Road and	12	Q. Okay. And what I'm just trying to
13	approaching the depression?	13	understand today is, is it your testimony
14	A. No, sir, I do not know.	14	that your response, as indicated on those
15	Q. Were there any other vehicles	15	records, was based on the fact that you
16	either behind you or in front of you	16	did not know why you drove over that
17	traveling on Hartwell Road at the time of	17	depression on that particular day as
18	the accident?	18	opposed to not knowing what hap -
19	A. Sir, I do not know.	19	Generally what had happened to you that
20	Q. Do you recall any vehicles	20	day?
21	traveling on the other side of the road	21	A. Correct, sir, I did not know what
22	towards you at the time of the accident?	22	had caused the accident.
23	A. Sir, I do not know.	23	Q. And when you use the word "cause,"
24	Q. Do you recall whether or not there	24	you're talking about why you drove over
	388		390
1	were any vehicles entering Hartwell Road	1	that depression that day?
2	from that naval research facility on the	2	A. Correct, sir. My last vivid memory
3	left?	3	was, like, the vibrant details of how my
4	A. Sir, I do not know that.	4	body was oriented and such. My reaction
5	Q. Do you have any memory or	5	was the only Was the last memory I had
6	understanding as to why, in this	6	until I woke up after my coma.
7	particular, day you your motorcycle drove	7	Q. And is it your understanding that
8	over that depression?	8	it was the The manhole and the road
9	A. Sir, again, no. The last things	9	depression on Hartwell Road that caused
10	that I remember were contacting that in	10	you to lose control of the motorcycle?
11	the last few seconds of reaction time that	11	A. Yes, sir.
12	I did have. And that's why it's difficult	12	Q. Do you have any memory of the half
13	for me to estimate how long it was because	13	hour after the accident either lying at
14	it was a reaction.	14	the scene, being at the scene or talking
15	<ul> <li>Q. And is it your testimony that</li> </ul>	15	to anyone?
1		1	
16	subsequent to the accident either in the	16	A. Sir, going back to my previous
17	subsequent to the accident either in the hospital Strike that. Is it your	17	answer my last memory was being in the
17 18	subsequent to the accident either in the hospital Strike that. Is it your testimony that subsequent to the accident,	17 18	answer my last memory was being in the air. So, no.
17 18 19	subsequent to the accident either in the hospital Strike that. Is it your testimony that subsequent to the accident, when you were asked if you knew what	17 18 19	answer my last memory was being in the air. So, no. Q. Okay.
17 18 19 20	subsequent to the accident either in the hospital Strike that. Is it your testimony that subsequent to the accident, when you were asked if you knew what happened you responded that you did not	17 18 19 20	answer my last memory was being in the air. So, no. Q. Okay. A. Sorry.
17 18 19 20 21	subsequent to the accident either in the hospital Strike that. Is it your testimony that subsequent to the accident, when you were asked if you knew what happened you responded that you did not know, that that relates solely to not	17 18 19 20 21	answer my last memory was being in the air. So, no. Q. Okay. A. Sorry. MR. CHARNAS: Try to just
17 18 19 20 21 22	subsequent to the accident either in the hospital Strike that. Is it your testimony that subsequent to the accident, when you were asked if you knew what happened you responded that you did not know, that that relates solely to not knowing why you drove over the depression	17 18 19 20 21 22	answer my last memory was being in the air. So, no. Q. Okay. A. Sorry. MR. CHARNAS: Try to just answer the question.
17 18 19 20 21	subsequent to the accident either in the hospital Strike that. Is it your testimony that subsequent to the accident, when you were asked if you knew what happened you responded that you did not know, that that relates solely to not	17 18 19 20 21	answer my last memory was being in the air. So, no. Q. Okay. A. Sorry. MR. CHARNAS: Try to just



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1	was prior to my injury.	1
2	Q. Have you I know you've talked	2
3	about going on to further schooling. Do	3
4	you What do you see as any limitations	4
5	in that regard?	5
6	A. Sir, I think prejudices in people's	6
7	mindsets, I think that that's going to be	7
8	the major roadblock that I see. I'm very	8
9	good at learning to adapt and overcome any	9
10	situation thrown at me, whether it be	10
11	something like trying to figure out how to	11
12	work out again on new equipment or, you	12
13	know, the like. I see the biggest	13
14	challenge is getting people to understand	14
15	to give me a chance.	15
16	<ul> <li>Q. And do you anticipate, if you're</li> </ul>	16
17	given that chance, you'll be able to	17
18	succeed in your attempts?	18
19	<ul> <li>A. I would like to try and I never</li> </ul>	19
20	think of negative thing. So I hope to	20
21	I hope to succeed in medicine given the	21
22	opportunity.	22
23	<ul><li>Q. I have no further questions, thank</li></ul>	23
24	you.	24
	572	
1		

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- motorcycle?
- A. Yes, sir.
- Q. And you intentionally aimed your body towards the guardrail?
  - A. No, sir. That's where I disagree.
- Q. You do not, okay. Didn't you
  - testify that you picked the guardrail as
- an aim point? 8
  - A. Yes, sir.
  - Q. That was a conscious decision on your part?
  - A. Yes, sir.
  - Q. So when you pushed off your guardrail, you intended to make some contact with the guardrail; is that correct?

MR. CHARNAS: You said pushed off the guardrail.

BY MR. WILMOT:

Q. I'm sorry, pushed off the motorcycle, you intended to make some --Strike the question. Would you agree that when you pushed off your -- Off the motorcycle that you intentionally aimed

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#### **FURTHER EXAMINATION** BY-MR.WILMOT:

- Q. Mr. Brown, in your best estimation, would your body have made contact with the guardrail in the manner in which you described it to us, if you did not push off your motorcycle, aimed yourself towards
- A. Yes, sir, I was definitely going to hit that quardrail, regardless. It was a matter of whether I was going to get crushed by my bike possibly or -- So, yes.
- Q. My question isn't whether you would have made contact with the guardrail. My question is: Would your body had made
- contact with the guardrail in the manner 17 that you described it to us had you not 18
- pushed off your motorcycle and aimed 19
- 20 yourself toward it?
- 21 A. No, sir. Not in the manner that I
- 22 described.
- Q. Okay. And would you agree with me 23
- that you intentionally pushed off of your 24

- 1 your body towards the guardrail?
  - A. No. sir.
- 3 Q. You did not? However, you did: testify that you did aim yourself towards 4 the guardrail, correct? 5
- A. No. sir. 6
  - Q. You did not pick the guardrail as
  - an aim point?
- 9 A. Yes, sir, I did. But I did not
- intend to hit it and I did not push 10 myself off toward it. I was going toward 11
- it anyway, and I pushed off my motorcycle 12
- to change the orientation of my body as it 13
- 14 hit the guardrail. It was inevitable that
- 15 I was going to hit it. 16
  - Q. Mm-hmm.
- 17 A. So all I did was pick a point at
  - which I wanted to use as a safe spot and
- try to turn my body in the best way 19
- possible going into that area because I 20 21 knew I was going to hit it anyway. It's
- 22 not as though I could have jumped 70 feet
  - and gone over the trees and been safe.
    - Q. But, now I didn't have an expedite



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